

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5294 OF 2007

Akkatai Kisan Jadhav & ors.... Petitioner

versus

Anandi Kisan Jadhav & ors..... Respondent.

Shri P.R.Arjunwadkar for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 09TH AUGUST, 2007

P.C.;

1. Rejection of an amendment application filed by the plaintiff, vide order dated 17-2-2007 by the trial court, has given raise to the filing of the writ petition. The trial court has held that the amendment application has been belatedly moved, not only after the evidence of the party was over but after the final oral arguments are over. The trial court has also held that the petitioner has not been diligent in as much as in the written statement filed by the defendant no.18 it was categorically stated that the registered development viz. agreement has been executed in favour of M/s. Siddhi Construction. The application for amendment goes to seek impleadment of M/s.Siddhi Construction as party defendant. It is obvious that if the amendment application is permitted now, it will necessitate granting of an opportunity to

a newly added party to file written statement and contesting the suit afresh on merit.

2. Perused the impugned order passed by the trial court. The same does not call for any interference. At this stage the learned counsel for the petitioner seeks permission to withdraw the writ petition with liberty to raise all the grounds that are raised in the present writ petition in a regular civil appeal if and in case the suit of the plaintiff is dismissed and the plaintiff is required to file regular civil appeal. Allowed to be withdrawn with liberty as prayed for. Needless to mention that all contentions raised in this petition are allowed to be raised in the regular civil appeal.

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